

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LLOYD WHITE,

Plaintiff,

vs.

STERLING FOODS,

Defendant.

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SA-19-CV-00530-ESC

ORDER

Before the Court in the above-styled cause of action is Plaintiff's *pro se* Supplemental Motion for Filed Motions, Letters and Emails to be Entered in the Transcripts [#140]. The record reflects that on July 7, 2021, this Court entered a Final Judgment that Plaintiff take nothing by his claims against Defendant. This case is currently on appeal before the Fifth Circuit Court of Appeals. By his motion, Plaintiff asks the Court to supplement the record on appeal with a list of items, including various motions and pleadings filed in this case. Defendant filed a response in opposition to the motion [#141], in which Defendant asks the Court to deny Plaintiff's motion.

The Fifth Circuit docket in Plaintiff's appeal indicates that the electronic record on appeal was accepted by the Fifth Circuit on November 30, 2021, triggering a deadline of December 20, 2021, for Plaintiff to advise the clerks of any errors or admissions from the record. *See* No. 21-50659; 5th Cir. R. 30.1.2. On January 18, 2022, weeks after the deadline, Plaintiff requested an extension of time for the District Court to correct the transcripts. The Fifth Circuit Deputy Clerk informed Plaintiff his motion was insufficient. Plaintiff responded with a supplemental motion,

which was similarly deficient for failing to list specific documents that needed to be supplemented and whether the documents were on file on this Court's docket sheet. The Clerk further instructed Plaintiff that any documents not filed in the District Court must be attached to his motion. The Fifth Circuit has extended Plaintiff's deadline to file his appellate brief until February 9, 2022.

The motion filed in this Court is an exact duplicate of the motion filed with the Fifth Circuit. The record before the Fifth Circuit establishes that Plaintiff has failed to follow the instructions of this Court regarding supplementation of the record and has not provided the Fifth Circuit with a sufficient motion requesting the same. Additionally, as Defendant points out, many of the documents listed in Plaintiff's motion are already part of the record on appeal. Furthermore, the Fifth Circuit, not this Court, is the Court to address any supplementation of the appellate record.

IT IS THEREFORE ORDERED that Plaintiff's *pro se* Supplemental Motion for Filed Motions, Letters and Emails to be Entered in the Transcripts [#140] is **DENIED**.

SIGNED this 2nd day of February, 2022.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE